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Attorneys for Petitioner NEXTEER
AUTOMOTIVE CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: DMCA SECTION 512(H)
SUBPOENA TO GITHUB, INC.

MISC. ACTION NO: 3:23-MC-80164-LJC

**NEXTEER AUTOMOTIVE
CORPORATION'S NOTICE OF
WITDRAWAL OF MOTION TO COMPEL
COMPLIANCE WITH SUBPOENA TO
GITHUB, INC. AND REQUEST FOR NON-
DISCLOSURE**

Date: August 8, 2023
Time: 10:30 a.m.
Judge: Hon. Lisa J. Cisneros
Courtroom G, 15th Floor

1 On June 30, 2023, Petitioner Nexteer Automotive Corporation ("Nexteer") filed a motion
2 seeking an order compelling GitHub, Inc. ("GitHub") to comply with the subpoena issued on June 9,
3 2023 by the Clerk of this Court, and preventing GitHub from giving advance notice to website users and
4 any individuals that uploaded and downloaded this information that it is going to disclose their account
5 information to Nexteer pursuant to the subpoena.

6 On June 30, 2023, GitHub notified counsel for Nexteer of its desire to resolve this dispute
7 without an order from the Court and proposed an agreement to turn over responsive documents. The
8 parties engaged in a series of meet and confers to discuss GitHub's proposal. GitHub has represented to
9 Nexteer's counsel that GitHub will provide sufficient identifying information of users who downloaded
10 Nexteer's code without giving those users advance notice. As for users who uploaded the infringing
11 code to GitHub's website, GitHub will comply with the subpoena and provide the full requested
12 information, subject to GitHub providing the uploading users with advance notice of the impending
13 disclosure.

14 Nexteer's request for documents under the Motion to Compel is now moot based on Github's
15 representations above. Accordingly, Nexteer hereby withdraws the Motion to Compel, without prejudice
16 to refiling the Motion if GitHub fails to abide by the terms of its proposed agreement.

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18 DATE: JULY 11, 2023

FOLEY & LARDNER LLP
JEFFREY S. KOPP

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21 By: /s/ Jeffrey S. Kopp
JEFFREY S. KOPP
22 Attorney for Petitioner NEXTEER AUTOMOTIVE
CORPORATION
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